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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,925	11/25/2003	Norbert Polzin	10191/3289	8361

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KENYON & KENYON
 ONE BROADWAY
 NEW YORK, NY 10004

EXAMINER

NGUYEN, TAN QUANG

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,925

Applicant(s)

POLZIN ET AL.

Examiner

TAN Q. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-21 is/are rejected.
- 7) ☒ Claim(s) 7-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/25/03, 11/19/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAIL ACTION

Notice to Applicant(s)

1. This application has been examined. Claims 1-21 are pending.
2. The prior arts submitted on November 25, 2003 and November 19, 2004 have been considered. There is one document DP 863480 which is not being considered by the examiner since the subject matter is not related to the application.
3. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which have been placed of record in the file.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-6 and 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuehn et al. (6,088,631) in view of Bannon et al. (5,136,508).

7. With respect to claims 1, 14, 15, 20 and 21, Kuehn et al. disclose the method and apparatus for monitoring at least one hydraulic component in a vehicle which includes the steps of measuring a temperature of the at least one hydraulic component to produce a measure loading (see at least the abstract), and performing a comparison of the measured loading to at least one specifiable threshold value (see at least the abstract and column 1, line 37 to column 2, line 11).

8. Kuehn et al. do not explicitly disclose that the measured temperature is generated on the basis of a braking request. However, such system which generates temperature based on the braking request is well known in the braking art and as shown in at least the abstract, figure 1, and the related text of the Bannon reference. It would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the teaching of the Bannon into the system of Kuehn et al. in order to controlling the temperature in the vehicle to avoid overheat in which such temperature is generated based on the braking request.

9. With respect to claims 2, 16 and 17, Kuehn et al. also disclose the step of initiating a specifiable measure for reducing the temperature as a function of comparison (see at least column 1, line 66 to column 2, line 3).

10. With respect to claim 3, Kuehn et al. disclose the step of measuring an instantaneous temperature of the at least one hydraulic component (see at least column 1, lines 39-41).

11. With respect to claims 4 and 18, Kuehn et al. further disclose that when the temperature exceeds at least one specifiable threshold, the operating sequences are limited to such operating sequences which produce less heat or heat dissipation (see column 2, lines 1-3).

12. With respect to claims 5, 13 and 19, Kuehn et al. also disclose a method and apparatus for monitoring at least one hydraulic component in a vehicle which includes the steps of performing at least one modification of an operation of at least an open-loop control system and a closed loop control system (engine control system) that are situated in the vehicle in order to control the at least one hydraulic component, and implementing the at least one modification of an individual system functions in at least two modes as function of the wear-causing loading (see at least column 1, lines 48-51, column 1, line 66 to column 2, line 55, column 4, line 3, and column 5, lines 24-32).

13. With respect to claim 10, Kuehn et al. also disclose that the at least one specifiable threshold represents a maximum heat of a system during operation (see column 3, lines 45-60 – T_{limit}).

14. With respect to claim 6, in addition, Kuehn et al. disclose a partial shut-down in carry out when the temperature exceeds a threshold temperature (see column 2, lines 4-11).

15. With respect to claim 11, Kuehn et al. further disclose the step of storing the threshold in a non-volatile memory (see at least column 2, lines 56-65).

16. With respect to claim 12, Kuehn et al. disclose that the at least one hydraulic component includes a valve (see column 3, lines 31-40).

17. Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Although the prior art disclose several claimed limitations, none of the references teaches a method and apparatus for monitoring at least one hydraulic component in a vehicle which includes the steps of performing at least one modification of an operation of at least an open-loop control system and a closed loop control system that are situated in the vehicle in order to control the at least one hydraulic component, and implementing the at least one modification of an individual system functions in at least two modes as function of the wear-causing loading, wherein the in first mode, modifying at least one open loop control system and the closed loop control system relating to a control of at least one function in the vehicle relevant to travel comfort along the lines of minimizing the wear-causing loading, and in a second mode, modifying at least one of open loop control system and the closed loop control system relating to a control of at least one function in the vehicle relevant to driving safety as a function of the first mode along the lines of minimizing the wear-causing loading. Further, the limitation "prioritizing of the at least one of open-loop control system and the closed-loop control system involves performing a partial shut down of the at least one function relevant to driving comfort.

Conclusion

19. Claims 1-6 and 10-21 are rejected. Claims 7-9 are objected.

20. The following references are cited as being of general interest: Ostwald et al. (4,769,989), Tai et al. (6,119,059), Tanaka et al. (6,430,493), Laxhuber et al. (6,774,595).

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Tan Q. Nguyen, whose telephone number is (571) 272-6966. The examiner can normally be reached on Monday-Thursday from 5:30 AM-4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black, can be reached on (571) 272-6956.

Any response to this action should be mailed to:

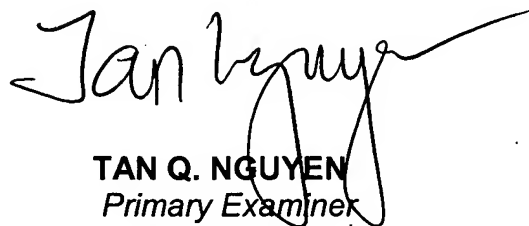
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Washington, D.C. 20231

or faxed to the Official Fax Center:

(703) 872-9306, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/tqn
July 22, 2005


TAN Q. NGUYEN
Primary Examiner
Art Unit 3661